

Eric Lechtzin (NJ 011841992)  
**EDELSON LECHTZIN LLP**  
3 Terry Drive, Suite 205  
Newtown, PA 18940  
Telephone: (215) 867-2399

Todd S. Collins (admitted *pro hac vice*)  
Abigail Gertner (NJ 019632003)  
**BERGER MONTAGUE PC**  
1818 Market Street, Suite 3600  
Philadelphia, PA 19103  
Telephone: (215) 875-3000  
Facsimile: (215) 875-4604

*Counsel for Plaintiffs and  
the Putative Class*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
Newark Vicinage**

---

RAY ALLEN LUENSE, PAMELA  
PEARSON, DANIEL F. SETTNEK and  
NEIL ROSE, individually and as  
representatives of a class of participants  
and beneficiaries on behalf of the Konica  
Minolta 401(k) Plan,

Plaintiffs,

v.

KONICA MINOLTA BUSINESS  
SOLUTIONS U.S.A., INC., BOARD OF  
DIRECTORS OF KONICA MINOLTA  
BUSINESS SOLUTIONS U.S.A., INC.,  
KONICA MINOLTA 401(K) PLAN  
COMMITTEE, SANDRA SOHL, SUSAN  
MCCARTHY, and JOHN DOES 1-30,

Defendants.

---

Civ. No. 2:20-cv-06827 (JMV-MF)

**NOTICE OF MOTION**

Motion Date: June 7, 2021

**TO:** Philip W. Crawford  
Daniel A. Dorfman  
GIBBONS P.C.  
One Gateway Center  
Newark, NJ 07102-5310  
(973) 596-4803

Lars C. Golumbic (admitted *pro hac vice*)  
Edward J. Meehan (admitted *pro hac vice*)  
Samuel I. Levin (admitted *pro hac vice*)  
Elizabeth L. Woods (admitted *pro hac vice*)  
GROOM LAW GROUP, CHARTERED  
1701 Pennsylvania Avenue, N.W.  
Washington, DC 20006-5811  
(202) 857-0620

*Attorneys for Defendants*

**PLEASE TAKE NOTICE** that on June 7, 2021, at 9:00 a.m., or as soon thereafter as counsel may be heard, Plaintiffs , by and through their undersigned counsel, shall move before the United States District Court for the District of New Jersey for an order granting their Motion for Leave to File Supplemental Authority.

**PLEASE TAKE FURTHER NOTICE** that said Motion is attached to this Notice.

**PLEASE TAKE FURTHER NOTICE** that a proposed form of Order accompanies this Motion.

Dated: April 29, 2021

Respectfully submitted,

/s/Eric Lechtzin

Eric Lechtzin (NJ 011841992)  
**EDELSON LECHTZIN LLP**  
3 Terry Drive, Suite 205  
Newtown, PA 18940  
Telephone: (215) 867-2399  
elechtzin@edelson-law.com

Todd S. Collins (admitted *pro hac vice*)  
Abigail Gertner (NJ 019632003)  
**BERGER MONTAGUE PC**  
1818 Market Street, Suite 3600  
Philadelphia, PA 19103  
Telephone: (215) 875-3000  
Facsimile: (215) 875-4604  
tcollins@bm.net  
agertner@bm.net

*Counsel for Plaintiffs and  
the Putative Class*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
Newark Vicinage**

---

RAY ALLEN LUENSE, PAMELA  
PEARSON, DANIEL F. SETTNEK and  
NEIL ROSE, individually and as  
representatives of a class of participants  
and beneficiaries on behalf of the Konica  
Minolta 401(k) Plan,

Plaintiffs,

v.

KONICA MINOLTA BUSINESS  
SOLUTIONS U.S.A., INC., BOARD OF  
DIRECTORS OF KONICA MINOLTA  
BUSINESS SOLUTIONS U.S.A., INC.,  
KONICA MINOLTA 401(K) PLAN  
COMMITTEE, SANDRA SOHL, SUSAN  
MCCARTHY, and JOHN DOES 1-30,

Defendants.

---

Civ. No. 2:20-cv-06827 (JMV-MF)

**Plaintiffs' Motion for Leave to  
Submit Supplemental Authority  
in Support of Opposition to  
Defendants' Motion to Dismiss**

Motion Date: June 7, 2021

Hon. John Michael Vazquez

**Plaintiffs' Motion for Leave to Submit Supplemental Authority in  
Support of Opposition to Defendants' Motion to Dismiss**

Plaintiffs, by and through their attorneys, respectfully move this Court for leave to file supplemental authority in support of their Opposition to Defendants' Motion to Dismiss Complaint with Prejudice (ECF No. 23). In support of this Motion, Plaintiffs state as follows:

1. On August 25, 2020, Defendants filed a Notice of Motion to Dismiss Complaint with Prejudice (ECF No. 23). Plaintiffs filed their Opposition to

Defendants' Motion to Dismiss Complaint on October 6, 2020 (ECF No. 35). Defendants' filed their Reply Memorandum in Further Support of their Motion to Dismiss on October 20, 2020 (ECF No. 38). As of this filing, the Court has not yet ruled on the Motion to Dismiss.

2. Subsequent to Plaintiffs' filing their Opposition to the Motion to Dismiss in this case, on April 13, 2021, the United States District Court of New Jersey issued two decisions in analogous cases also brought under the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001 *et seq.*: *McGowan v. Barnabas Health, Inc.*, No. 20-13119, 2021 WL 1399870 (D.N.J. April 13, 2021) and (2) *Peterson v. Insurance Serv. Office, Inc.*, No. 20-13223, 2021 WL 1382168 (D.N.J. April 13, 2021). These cases involve substantially similar facts as those alleged in this case and the decisions address a number of questions raised by Defendants in the Motion to Dismiss currently pending before this Court, including those related to Article III standing and the adequacy of Plaintiffs' allegations to sustain a violation of ERISA's duty of prudence.

3. Given the similarity of facts and issues presented, Plaintiffs request leave to submit *McGowan* and *Peterson* as supplemental authority in their opposition to Defendants' Motion to Dismiss.

WHEREFORE, Plaintiffs respectfully request that the Court enter an Order granting leave to submit as supplemental authority *McGowan v. Barnabas Health*,

*Inc.*, No. 20-13119, 2021 WL 1399870 (D.N.J. April 13, 2021) and *Peterson v. Insurance Serv. Office, Inc.*, No. 20-13223, 2021 WL 1382168 (D.N.J. April 13, 2021) (attached as Exhibits A and B, respectively, to Exhibit 1), in support of their Opposition to Defendants' Motion to Dismiss Complaint with Prejudice.

Dated: April 29, 2021

Respectfully submitted,

/s/Eric Lechtzin

Eric Lechtzin (NJ 011841992)  
**EDELSON LECHTZIN LLP**  
3 Terry Drive, Suite 205  
Newtown, PA 18940  
Telephone: (215) 867-2399  
elechtzin@edelson-law.com

Todd S. Collins (admitted *pro hac vice*)  
Abigail Gertner (NJ 019632003)  
**BERGER MONTAGUE PC**  
1818 Market Street, Suite 3600  
Philadelphia, PA 19103  
Telephone: (215) 875-3000  
Facsimile: (215) 875-4604  
tcollins@bm.net  
agertner@bm.net

*Counsel for Plaintiffs and  
the Putative Class*